**ORDINANCE NO.** _07-59_

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSIONS", ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM, DIVISION 7. DEFERRED RETIREMENT OPTION PROGRAM (DROP) FOR SWORN POLICE OFFICERS AND FIREFIGHTERS OF THE CODE OF ORDINANCES, AND IN PARTICULAR, REVISING HIALEAH CODE § 70-263 ENTITLED "PAYMENTS TO THE DROP ACCOUNT" TO PROVIDE FOR PAYMENTS TO THE DROP ACCOUNT ACCORDING TO THE MEMBER'S ELECTION AS TO THE AMOUNT AND FORM OF BENEFIT MADE AT TIME OF THE MEMBER'S RETIREMENT; AND REVISING HIALEAH CODE § 70-268 ENTITLED "PAYOUT" TO PROVIDE FOR THE PAYOUT ON OR BEFORE JANUARY 31$^{ST}$ OF THE YEAR FOLLOWING THE MEMBER'S TERMINATION OR DEATH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** the purpose and intent of this ordinance is to amend the provisions of the recently adopted Deferred Retirement Option Program (DROP) to include the alternative for an employee exercising the option to participate in the DROP to include the annuity in the DROP account; and

**WHEREAS,** this amendment will give the employee the option of transferring the accumulated annuity savings into the DROP account, upon retirement and may provide tax advantages to the employee under certain circumstances; and

**WHEREAS,** this amendment shall also allows for the distribution of the DROP account proceeds to the employee or beneficiary, if the employee dies, at any time up January 31$^{st}$ of the following calendar year from the year of separation from the City; and

WHEREAS, this amendment will not financially impact the City of Hialeah; and

WHEREAS, AFSCME Local 161; IAFF, Local 1102; and the Dade Police Benevolent Association, as union representatives of their respective bargaining units, consented to the proposed amendments to the Deferred Retirement Option Program ("DROP"); and

WHEREAS, on May 22, 2007, the Board of Trustees of the Hialeah Retirement System reviewed and recommended the proposed amendments to the DROP.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, Division 7. Deferred Retirement Option Program for Sworn Police Officers and Firefighters, of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 70

**RETIREMENT AND PENSIONS**

\* \* \*

**ARTICLE IV. EMPLOYEES GENERAL
RETIREMENT SYSTEM**

\* \* \*

DIVISION 7. DEFERRED RETIREMENT OPTION
PROGRAM (DROP) FOR SWORN POLICE OFFICERS
AND FIREFIGHTERS

\* \* \*

**Sec. 70-263. Payments to the DROP account.**

A member's monthly retirement benefits, consistent with the member's election at time of retirement concerning the amount and form of benefit, consisting of the member's

~~basic pension, service pension,~~ any future periodic cost-of-living increases, which would have been payable had the member elected to cease employment and receive a normal retirement benefit, shall be paid into the member's DROP account.

\* \* \*

### Sec. 70-268. Payout.

~~Within 30 days~~ On or before January 31$^{st}$ of the year following the member's termination of employment or death, the member's entire DROP account shall be distributed to the member (or in the event of the death, to the member's designated beneficiary or estate) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member. Regardless of the option selected by the member, the board of trustees reserves the right to accelerate or defer payments to comply with the Internal Revenue Code and the board of trustees shall take no action that would jeopardize the tax qualifications of the plan.

\* \* \*

### Section 2:    Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

### Section 3:    Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction.  Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

### Section 4:    Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.
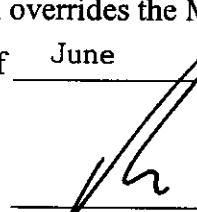
### Section 5:    Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

### Section 6:    Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this __26__ day of __June__, 2007.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Esteban Bovo
Council President

Attest:                               Approved on this __30__ day of __June__, 2007.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

Strikethrough indicates deletion. Underline indicates addition.

Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".

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